

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
EASTERN DIVISION
No. 4:23-CV-63-D

STATE OF NORTH CAROLINA,)
EDGECOMBE COUNTY,)
)
 Plaintiff,)
)
 v.)
)
THOMAS EVERETTE, JR.,)
)
 Defendant.)

ORDER

On April 3, 2023, Thomas Everett, Jr. (“Everette” or “defendant”) appearing pro se, filed a notice of removal of a pending criminal action from Edgecombe County Superior Court and an application to proceed in forma pauperis. See [D.E. 1, 2]. On April 6, 2023, pursuant to 28 U.S.C. § 636(b)(1), the court referred this matter to Magistrate Judge Meyers for a Memorandum and Recommendation (“M&R”) on Everette’s motion to proceed in forma pauperis and for a frivolity review. On May 9, 2023, Magistrate Judge Meyers granted Everette’s motion to proceed in forma pauperis, and issued an M&R concluding that Everette improperly removed this action and recommending that the court remand the action to Edgecombe County Superior Court. See [D.E. 7]. On May 24, 2023, Everette objected to the M&R [D.E. 8].

“The Federal Magistrates Act requires a district court to make a de novo determination of those portions of the magistrate judge’s report or specified proposed findings or recommendations to which objection is made.” Diamond v. Colonial Life & Accident Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005) (cleaned up); see 28 U.S.C. § 636(b). Absent a timely objection, “a district court need not conduct a de novo review, but instead must only satisfy itself that there is no clear error on the

face of the record in order to accept the recommendation.” Diamond, 416 F.3d at 315 (quotation omitted). If a party makes only general objections, de novo review is not required. See Wells v. Shriners Hosp., 109 F.3d 198, 200 (4th Cir. 1997). “In order to preserve for appeal an issue in a magistrate judge’s report, a party must object to the finding or recommendation on that issue with sufficient specificity so as reasonably to alert the district court of the true ground for the objection.” Martin v. Duffy, 858 F.3d 239, 245 (4th Cir. 2017) (quotation omitted); see United States v. Midgette, 478 F.3d 616, 622 (4th Cir. 2007).

The court has reviewed the M&R, the record, and Everett’s objection. As for the objection, Everett states: “I Thomas Everett Jr. here by object to recommendation and memorandum by the United States Magistrate Judge. And stands on his notice of removal and its contest.” [D.E. 8]. Everett’s objection does not require de novo review.

In sum, the court ADOPTS the conclusions in the M&R [D.E. 7] and concludes that defendant improperly removed the criminal action. The clerk SHALL REMAND the action to Edgecombe County Superior Court.

SO ORDERED. This 14 day of June, 2023.


JAMES C. DEVER III
United States District Judge